IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.2622 OF 2005
WITH
WRIT PETITION (L) NO.2623 OF 2005
WITH
WRIT PETITION (L) NO.2624 OF 2005
WITH
WRIT PETITION (L) NO.2625 OF 2005

Vijaykumar M. Hirakhanwala
HUF, Through their Karta
Mr.Vijaykumar M. Hirakhanwala,
Indian Inhabitant, 312
Kalbadevi Road, 4th Floor,
Mumbai 400 002 .. Petitioner.

V/s.

Asstt.Commissioner of I.T.
Range 14(2) 3rd Floor,
Earnest House, and Their
Successor i.e. Income Tax
Off. 14(2)4, Nariman Point,
Mumbai 400 021 & Ors .. Respondents.

Mrs.Shobha Jagtiani i/b. D.M. Harish & Co. for the petitioner.
Mr.Ashok Kotangale with Mr.G. Hariharan for the respondents.

CORAM : H.L. GOKHALE &
J.P. DEVADHAR, JJ.

DATED : 6TH DECEMBER, 2005.

P.C. :

1. Heard Mrs.Jagtiani in support of all these petitions which are concerned four assessment years. Rule. Rule made returnable forthwith. Mr.Kotangale appears for the respondents.

2. In all these matters, order under challenge is the order passed by the assessing officer. Here

what has happened is a notice to re-open the assessment had been given. The petitioners asked for the reasons for giving the notices. The assessing officer has only given gist of reasons but not the reasons. Even the obgjections raised by the petitioner that the issue is covered by the decision of Commissioner of Income Tax (Appeals) has not been considered. It is clearly contrary to the decision of the Apex Court in the case of G.K.N. Driveshafts (I) Ltd. V/s. Income Tax Officer [259 ITR 19 (SC)]. The assessing officer has stated that he will give the reasons at the time of passing final order under Section 143(3) / 144 which is again contrary to the law laid down in the decision of the Apex Court.

3. In view of what is stated above, we set aside impugned order and make the rule absolute and remand the matters back to the assessing officer. The proceedings will stand revive to his file. He will give an opportunity to the petitioner once again and decide the objections filed by the petitioner.

4. All contentions of both the parties are kept open.

5. All writ petitions stand disposed of in terms of this order.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)